



Office of the Attorney General
State of Texas

September 23, 1998

DAN MORALES
ATTORNEY GENERAL

Ms. Linda R. Frank
Assistant City Attorney
City of Arlington
P.O. Box 231
Arlington, Texas 76004-0231

OR98-2278

Dear Ms. Frank:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 118208.

The City of Arlington (the "city") received a request for "a copy of the written opinion by the City Attorney's office about the mayor voting on the funding issue for the New Beginnings Inc. Program."¹ In response to the request, you submit to this office for review the information which you assert is responsive. You claim that the requested information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. Section 552.107(1) excepts information from disclosure if:

[I]t is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct.

¹In this instance, the requestor has expressed some concern over the city's timeliness in requesting a ruling from the Office of the Attorney General. We note that section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth *business* day after the date of receiving the written request. According to your brief and the requestor's letter to this office, the city received the written request for information on June 16, 1998. You sought a request for a decision from this office on June 30, 1998, which is within the requisite ten *business* days after the requestor's written request. Therefore, we conclude that the city has met its ten-day deadline for requesting an opinion from this office.

In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 at 5 (1990).

Section 552.107(1) does not protect purely factual information unless the factual information constitutes a confidence that the client related to the attorney. *See id.* at 5. When invoking this exception, the governmental body bears the burden of explaining how the particular information requested constitutes either a client confidence or a communication of legal advice or opinion. *See, e.g.*, Open Records Decision No. 589 (1991). In this instance, you have shown how this section applies to the document within Exhibit B. Therefore, we conclude that Exhibit B may be withheld pursuant to section 552.107(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" that loops around the first part of the name.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref: ID# 118208

Enclosures: Submitted document

cc: Mr. Bruce Pastusek
207 W. North
Arlington, Texas 76011
(w/o enclosures)